



STATE OF INDIANA

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November 18, 2015

Mr. Robert Fiedler, Sr.
8716 South Utica Avenue
Evergreen Park, Indiana 60805

Re: Formal Complaint 15-FC-278; Alleged Violation of the Access to Public Records Act by the LaGrange County Regional Utility District

Dear Mr. Fiedler,

This advisory opinion is in response to your formal complaint alleging the LaGrange County Regional Utility District ("District") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The District responded via Ms. Heidi Sisco, Administrative Manager. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 19, 2015.

BACKGROUND

Your complaint dated October 14, 2015 alleges the LaGrange County Regional Utility District violated the Access to Public Records Act by failing to provide access to the records requested.

On September 1, 2015 you requested records related to a special meeting at the Brethren Retreat in 2008. These records were both paper files and an audio recording. On September 11, 2015 you arrived at the District office and took possession of the paper files which were provided. However, there was no audio recording. This is despite your claim District personnel informed you an audio recording existed.

On November 6, 2015 the district responded. The District contends no audio recording was located from the meeting.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties



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of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The LaGrange County Regional Utility District is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the District’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

The District has stated no audio recording was found. The APRA does not contemplate a violation for failing to provide a record where none exists. Therefore, there is no violation for the District’s failure to provide an audio recording.

You contend, however, a recording existed and the District improperly destroyed it. You maintain this belief despite a September 11, 2015 communication from the District explaining why no record could be found. I note the retention schedule for audio records of meetings states the recording only needs to be retained until the minutes of the meeting have been ratified. If the audio record does exist, it must be provided to you. If the audio recording no longer exists because it was destroyed in compliance with the District’s retention schedule, then there is no violation under the APRA. For more information on local government retention schedules, please visit http://www.in.gov/iara/files/county_general.pdf.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Heidi Sisco